

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Lemuel Craft,**

**Plaintiff,**

**Vs.**

**Michael J. Astrue,**

**Defendant.**

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

**CASE NO. 1:12 CV 487**

**JUDGE PATRICIA A. GAUGHAN**

## Memorandum of Opinion and Order

## INTRODUCTION

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Kenneth S. McHargh, recommending that the decision of the Commissioner be VACATED and this case REMANDED to defendant for further proceedings. Defendant filed a notice indicating that it will not be filing objections to the Report and Recommendation. For the reasons that follow, the Report and Recommendation is ACCEPTED and the decision of the Commissioner is VACATED. This case is REMANDED to defendant for further proceedings.

## STANDARD OF REVIEW

When objections are made to a Magistrate Judge's Report and Recommendation, the

district court reviews the case *de novo*. Federal Rule of Civil Procedure 72(b) provides in pertinent part:

The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

As stated in the Advisory Committee Notes, "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." In *Thomas v. Arn*, 474 U.S. 140, 150 (1985), the Court held, "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."

### **DECISION**

This Court, having reviewed the Report and Recommendation and finding no clear error, hereby accepts the Magistrate Judge's Report and Recommendation. In accordance with that recommendation, the Court hereby VACATES the decision of the Commissioner for the reasons stated by the Magistrate Judge in the Report and Recommendation, which is incorporated herein by reference. This matter is REMANDED to defendant for further proceedings.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
United States District Judge

Dated: 01/07/13